

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES-GENERAL

Case No. CV 06-6130-SVW (Ex)

Date: November 5, 2007

Title: BARBARA GROOM v. THE STANDARD INSURANCE CO., et al.

DOCKET ENTRY

PRESENT:

HON. CHARLES F. EICK, JUDGE

STACEY PIERSON

DEPUTY CLERK

N/A

COURT REPORTER

ATTORNEYS PRESENT FOR PLAINTIFFS:

None

ATTORNEYS PRESENT FOR DEFENDANTS:

None

PROCEEDINGS: (IN CHAMBERS)

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The Court has read and considered all papers filed in support of and in opposition to "Plaintiff's Motion to Compel Discovery" ("the Motion"), filed September 27, 2007. The Court heard oral argument on November 2, 2007.

The Motion is granted in part and denied in part.

The Court is not persuaded by that, in order to obtain the requested discovery, Plaintiff must make a preliminary showing of a conflict of interest beyond the structural conflict of interest which the parties agree exists in this case. See Crummett v. Metropolitan Life Ins. Co., 2007 WL 2071704 (D.D.C. July 16, 2006); Harris v. J.B. Hunt Transp., Inc., 423 F. Supp. 2d 595 (E.D. Tex. 2005); but see Semien v. Life Ins. Co. of North America, 436 F.3d 805 (7th Cir.), cert. denied, 127 S. Ct. 53 (2006). A number of courts in this circuit appear to have authorized discovery in ERISA cases without requiring any such preliminary showing. See, e.g., Harper v. UNUM Life Ins. Co., 2007 WL 1792004 (E.D. Cal. June 19, 2007); Aluisi v. Elliott Mfg. Co., 2006 WL 1686400 (E.D. Cal. June 16, 2006); Frost v. Metropolitan Life Ins. Co., 414 F. Supp. 2d 961 (C.D. Cal. 2006); Klund v. High Technology Solutions, Inc., 417 F. Supp. 2d 1155 (S.D. Cal. 2005).

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In Abatie v. Alta Health & Life Ins. Co., 458 F.3d 955, 967 (9th Cir. 2006), the Ninth Circuit rejected a standard of review burden-shifting scheme that placed an initial conflict-related evidentiary burden on ERISA plaintiffs. Although not a discovery ruling, the Abatie decision suggests that courts should be reluctant to impose conflict-related threshold evidentiary burdens on ERISA plaintiffs. See id. at 969 (deeming “unreasonable” the burden the Ninth Circuit previously placed on ERISA plaintiffs to produce evidence of a “serious conflict of interest”).

Plaintiff may engage in discovery to obtain the information sought in Requests Nos. 1 through 9, limited to the time period between January 1, 2003 and December 31, 2006.

Plaintiff may engage in discovery to obtain the information sought in Request No. 10, limited to the time period between the date of submission of Plaintiff's claim to Defendant and July 24, 2006.

The Court finds that this discovery is “narrowly tailored” and “relevant to the nature, extent and effect on the decision-making process” of the conflict of interest. See Groom v. Standard Ins. Co., 492 F. Supp. 2d 1202, 1205 (C.D.Cal. 2007) (citations and internal quotations omitted).

This discovery shall be subject to a protective order limiting the use of the information discovered to use for purposes of this litigation only.

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The Motion otherwise is denied.

Any party seeking review of this order shall cause the preparation and filing of a transcript of the November 2, 2007 hearing.

cc: Judge Wilson
All Counsel of Record